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## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

50277-2895

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On 4/16/07

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Application Number

10/051,274

Filed

January 22, 2002

First Named Inventor

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Art Unit

2192

Examiner

Chrystine Pham

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

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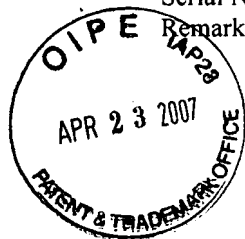
04/16/07  
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☐ \*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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### REMARKS/ARGUMENTS

As will be seen from the discussion below, the Examiner's rejection of claims 1-2, 5, 6, 9, 11, 15-17, 19-21, and 23-34 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Agrawal in view of Claussen do not establish a *prima facie* case of obviousness. There are clear errors of fact and of law in the Examiner's rejections that make the rejection improper and without basis.

#### Claim 1 is Patentable over Agrawal

Agrawal describes a system that analyzes web pages in order to find blocks of codes within the pages that are cacheable. For example, each of the blocks A, B, C, and D may be generated by code present in the underlying script of the document . . . The code that generates . . . A is necessarily distinct from the code in the script that generates. . . B." (See Agrawal, ¶ 33). Basically, Agrawal describes analyzing a web page to identify independent blocks of code that can be stored until the associated web page is accessed. Then, upon access, the Agrawal system inserts the cached blocks of code into the accessed web page. This is different from "generating a servlet class for the page based on the set of code instructions . . . [and] loading a copy of the markup text into shared memory"" as recited in Claim 1.

First, the markup text being loaded into shared memory is not necessarily information that is static to the web page (e.g., HTML text). The loading markup text step refers to a new way of handling and sharing Java literal strings. (See Specification, ¶ 10-12). Put another way, the loading step refers to static information that typically would be loaded into the servlet classes themselves. However, here, instead of storing that information as literal strings in the servlet class, the static information is loaded into a shared location available to multiple instances of the servlet class. This is not taught by Agrawal. Each block of code in Agrawal is stored separately

from the other blocks of code. However, each instance of an Agrawal block of code does not access shared information unique to instances of that block of code.

Claussen, similarly, does not teach “generating a servlet class for the page based on the set of code instructions . . . [and] loading a copy of the markup text into shared memory” as recited in Claim 1. The Examiner states that “Claussen discloses a system and method for serving dynamically generated servlet [class] using JSP to requesting clients.” Basically, the Claussen reference describes the typical mechanisms used to generate servlet classes. It also describes a document object model tree that can identify custom tags. It does not, however, describe caching static markup portions of the servlet classes so that multiple instances of the same class can access the shared information, thereby, reducing the footprint of each servlet class. For at least this reason, Claim 1 is patentable over Agrawal in view of Claussen.

Moreover, even if the alleged Agrawal-Claussen combination does teach all of the limitations of Claim 1. There is no motivation to combine the two references. The Examiner states that “Agrawal and Claussen are analogous art because they are both directed to dynamically generating scripted pages. It would have been obvious to one of ordinary skill in the pertinent art at the time the invention was made to incorporate the teaching of Claussen into that of Agrawal for the inclusion of a servlet class. And the motivation for doing so would have been to allow error-handling code to be included in the servlet class for improved debugging and maintenance of the requested web pages.” This motivation to combine does not make sense in light of the nature of Agrawal. Agrawal was designed to improve web server performance and limit the amount of processing the web server has to do. Adding additional debugging script to Agrawal would defeat many of the performance enhancements Agrawal is designed to accomplish.

Furthermore, as admitted to by the Examiner, Agrawal does not teach dynamically generated servlets. Accordingly, there is no need for Agrawal to incorporate the loading of static markup text associated with dynamically generated servlet classes into it.

For at least these reasons, the rejection of Claim 1 under 35 U.S.C. § 103(a) should be withdrawn.

Dependent Claims 2, 9, 11, 15-17, 19-21, and 23-34

Dependent Claims 2, 9 and 23-25 depend from Claim 1, and hence, incorporate all of the limitations of Claim 1. These claims also recite further advantageous aspects of the invention. The Applicants submit that Claims 2, 9, and 10 are patentable over the alleged Agrawal-Claussen combination for at least the same reasons as those given above in connection with Claim 1.

Independent Claim 5 recites a similar element to the one recited in Claim 1. For at least the same reasons as set forth above, Claim 5 is also patentable over the alleged Agrawal-Friesen combination. Dependent Claims 6, 11, and 26-28 depend from Claim 5, and hence, incorporate all of the limitations of Claim 5. These claims also recite further advantageous aspects of the invention. The Applicants submit that these claims are patentable over the alleged Agrawal-Claussen combination for at least the same reasons as those given above in connection with Claim 5.

The other claims (Claims 15-17, 19-21, and 29-34) are computer-readable storage medium claims which contain limitations reasonably analogous to those described above. The Applicants submit that these claims are patentable over the alleged Agrawal-Claussen combination for at least the same reasons as given above.

### **CONCLUSION**

For at least the reasons above, the Applicants respectfully request that the rejections of all the pending claims be reversed.